

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

IN RE: STEPHEN A. GRIFFIN, DEBTOR

CASE NO. 2:02-bk-70245M
CHAPTER 7

BARBARA L. GRIFFIN

APPELLANT

v.

No. 2:06-CV-2055

RICHARD L. COX, TRUSTEE

APPELLEE

ORDER

Currently before the Court is Appellant's Emergency Request for Reconsideration of Order Denying Emergency Motion to Stay Proceedings as Moot (Doc. 5, Attachment 55). Appellant moves this Court to reconsider its order of April 14, 2006 denying her motion to stay proceedings in the United States Bankruptcy Court, Western District of Arkansas, Fort Smith Division in Case No. 2:06-MC-15. Appellant contends the Court erred in denying the motion as moot when her appeal in No. 2:06-CV-2015 was dismissed, because she intended that the motion to stay be considered in conjunction with her appeal in this case. Therefore, the Court will construe Appellant's Emergency Request as a motion to stay the bankruptcy proceedings pending the outcome of this appeal.

Rule 8005 of the Federal Rules of Bankruptcy Procedure provides, in pertinent part, that a motion for stay must be "made in the first instance in the bankruptcy court" , and a motion for stay made in the district court "shall show why the relief...was not obtained from the bankruptcy court." Appellant does not allege that she has sought a stay in the bankruptcy court as it relates to

her current appeal of the Orders entered by Judge Mixon on March 6, 2006, granting Trustee's Amended Motion for Turnover of Property and denying Mrs. Griffin's Response to Amended Motion for Turnover and Homestead Advisement of Third-Party Intervention and Motion to Strike Trustee's Amended Motion for Turnover for Failure to Comply with Rule 7001. Therefore, she failed to make the necessary showing for this Court to enter a stay. See *In re Duncan*, 107 B.R. 758 (W.D. Okla. 1988). Appellant is advised that she should comply with Rule 8005 by presenting her motion to stay in the Bankruptcy Court. Accordingly, Appellant's Emergency Request for Reconsideration of Order Denying Emergency Motion to Stay Proceedings as Moot (Doc. 5, Attachment 55) is DENIED.

IT IS SO ORDERED this 17th day of May 2006.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge